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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
 Hon'ble Shri Satish K. Agnihotri, J.

Misc. Appeal No. 801 OF 2005

APPELLANTS

1. Geeta Bai, aged about 40 years,
 Wd/o Late Gend Lal Sahu
2. Tripurari, aged about 70 years, S/o
 Gautam Ram Sahu
3. Samund Bai, Aged about 65 years,
 W/o Tripurari Sahu
4. Manohar Lal, Aged about 23 years
 S/o Late Gend Lal Sahu
5. Paras Ram Sahu, aged about 21
 years, S/o Late Gend Lal Sahu
6. Samaru Lal, Aged about 19 years,
 S/o Late Gend Lal Sahu,
 All R/o village Karipath, P.S. &
 Tahsil Bilaigarh, Distt. Raipur
 (C.G.)

Versus

RESPONDENTS

1. Bhagirathi, S/o Babulal Sahu
 R/o Nagarda, P.S. & Tahsil
 Bilaigarh, Dist. Raipur (C.G.)
2. New India Insurance Co. Ltd.
 Branch Office - Raipur
 R.D.A. Building, Bairan Bazar
 Raipur (C.G.)
3. Tejram, S/o Puranik Ram Sahu
 R/o Sambalpur, P.S. Lalbag
 District Rajnandgaon (C.G.)
4. Gupta Cement Agency
 Ganj Chowk, Rajnandgaon
 Distt. Rajnandgaon (C.G.)
5. National Insurance Co. Ltd.
 Branch Office, Branch -
 Rajnandgaon, Distt. Rajnandgaon
 (C.G.)

Present:

Mr Gautam Khetrapal, learned counsel for the appellants.
Mr. Ali Asgar, learned counsel assisting Mr. Prashant
Jayaswal, learned Sr. Counsel for the Insurance
Co./respondent No. 2.

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ORAL ORDER
(Passed on 7th of December 2005)

The following Order of the Court was passed by
S.R. Nayak, CJ:

This is a death case. The dependents of the deceased have preferred this appeal for more compensation.

We have heard learned counsel for the parties. It was contended by learned counsel for the appellants that the deceased was working as Mason and earning Rs. 250/- per day. Though, that is the claim of the appellants/claimants and they have examined two witnesses, in support of their claim, having regard to the place in which the deceased was working as Mason, it could not be said that he was earning daily wage of Rs. 250/-, that too, all the days in a month. Therefore, the income taken by the Tribunal for assessing loss of dependency @ 100/- per day or Rs. 3000/- per month could not be condemned as arbitrary. However, the MACT has committed error apparent on the face of the record in assessing loss of dependency. If the monthly income of the deceased was Rs. 3,000/-, his yearly income would become Rs. 36,000/-, whereas the MACT has taken yearly income of the deceased at Rs. 30,000/- and if we deduct 1/3rd of his income towards personal expenses, monthly loss of dependency would be Rs. 2000/-. Thus, total loss of dependency would be 3,60,000/- (2000 x 12 x 15). In that view of the matter, we award a sum of Rs. 3,60,000/- towards loss of dependency. The impugned award shall stand modified accordingly. In all other respects, the impugned award shall remain unaltered. There shall be no order as to costs.

The appeal is allowed to the extent indicated above.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge